(2) Mr. Ko Ya agrees and signs (Signature) $300.00

(3) Mr. Tan Ah Kim agrees and signs.

(4) Mr. Peh agrees and signs.

(5) Mr. Chin Kee Hia agrees and signs.

Dated 1st day of September, 1963.

With respect from
Brother Wee Hai Kok.'

The learned district judge found as a fact that the defendant signed this document and did receive the sum of $300.

Had I been trying the case it is conceivable that I might have arrived at a different conclusion to that of the learned district judge on this aspect of the case. Be that as it may there was evidence, if accepted by him, which would justify his finding and I am not prepared to disturb it.

The substantial issue argued on the appeal was as to whether the learned district judge was entitled to make an order for the recovery of possession.

Under the Control of Rent Ordinance an order or judgment for possession shall only be made or given in certain specific instances set out in section 15 of the Ordinance.

For our purposes the relevant sub-section is section 15(1)(f), namely, "where the tenancy has been determined by notice to quit given by the tenant".

The short point for decision is whether the agreement to vacate which I have set out above is a notice to quit given by the tenant within the meaning of section 15(1)(f).

In my view it is not a notice to quit at all but merely an agreement between the parties that the tenant would give up possession some time within 3 months from the 1st September, 1963. A notice to quit and an agreement to surrender or determine a tenancy are essentially different in their nature.

An agreement is the result of the consent of the parties whereas a notice to quit is altogether different. The essence of a notice to quit by the tenant is to determine the tenancy whether the landlord likes it or not. See *De Vries* v. *Sparks*.[1]

The plaintiff therefore was not, in my view, entitled to an order for the recovery of possession of the premises.

The case of *Rajbenbach* v. *Mamon* [2] is merely authority for saying that an agreement such as the one in question is not against public policy nor vitiated by the control of rent legislation although it might not legally be possible to eject the tenant owing to the operation of the Control of Rent Ordinance.

Barton v. *Fincham* [3] merely gives effect to the limitation on the jurisdiction of the court to make an order for possession which was imposed by the rent restriction legislation.

Brown v. *Draper* [4] is authority for the proposition that the only ways in which a tenant can be deprived of the protection of the Rent Acts are by giving up possession in which case no order for recovery of possession against him is required or by having an order for recovery of possession made against him. He cannot contract to give up his right to claim protection.

For the reasons which I have stated this appeal must be allowed and the judgment of the learned district judge set aside.

The appellant must have his costs of the appeal but there will be no order as to costs in the court below.

Appeal allowed.

Solicitors: *N. A. Christopher; Osborne Jones & Redrup.*

NG SENG HUAT & ANOR. v. PUBLIC PROSECUTOR

[F.C. (Thomson L.P., Ong Hock Thye Ag.C.J. (Malaya) and Suffian J.) December 28, 1965]

[K.L. — Federal Court Criminal Appeal No. X12 of 1965]

Internal Security — Possession of firearm and ammunition — Consorting with Indonesian armed forces — Evidence of members of Indonesian armed forces — Evidence of accomplices — Corroboration — Admissibility of statements — Internal Security Act, 1960, ss. 57(1) & 58(1).

The appellants were convicted on charges of consorting with the Indonesian armed forces and possession of firearms and ammunition. The principal grounds of appeal were (1) that the learned trial judge was wrong in holding that the finding of single dollar notes to the amount of $300 on the person of the first appellant and of $270 on the person of the second appellant constituted corroboration of the evidence of the members of the Indonesian armed forces against them; and (2) that the statements of the appellants were wrongly admitted in evidence.

Held: (1) in the circumstances the trial judge was clearly right in regarding possession of the sums of money in question as corroboration of the evidence of the Indonesian witnesses implicating each of the appellants in a material particular;

(2) there was nothing to show that the learned trial judge was wrong in coming to the conclusion that the statements were made voluntarily and after administration of the statutory caution and in any event quite apart from the statements there was ample evidence which as it was believed by the trial judge was sufficient to support the conviction of the appellants.

Case referred to:—

(1) *R.* v. *Baskerville* [1916] 2 K.B. 658.

FEDERAL COURT.

T. T. Rajah for the appellants.

Abdul Hamid bin Azmi (Deputy Public Prosecutor) for the respondent.

Cur. Adv. Vult.

Thomson L.P.: This is another appeal arising out of the airborne Indonesian invasion which took place near Labis in Johore on the night of 1st/2nd September, 1964. The two appellants were alleged to have been members of the party of armed men who were dropped from one of the Indonesian aircrafts and in consequence they were each prosecuted for three offences under the Internal Security Act, 1960.

In the case of the first appellant, Ng Seng Huat, the charges were as follows:—

"*1st Charge*: That you between the 2nd day of September, 1964 and the 13th day of September, 1964, in a Security Area as proclaimed by the Yang di-Pertuan Agong vide Federal L.N. 245 of 17th August 1964, namely Kampong Redong Ayer Panas, Labis, in the District of Segamat, in the State of Johore, consorted with members of the Indonesian armed forces who carried firearms and ammunitions in contravention of the provisions of section 58(1) of the Internal Security Act, 1960, in circumstances which raised a reasonable presumption that you intended to act with such members of the said Indonesian armed forces in a manner prejudicial to public security and you have thereby committed an offence punishable under section 58(1) of the Internal Security Act, 1960.

2nd Charge: That you between the 2nd day of September, 1964 and the 13th day of September, 1964, in a Security Area as proclaimed by the Yang di-Pertuan Agong vide Federal L.N. 245 of 17th August, 1964, namely Kampong Redong Ayer Panas, Labis, in the District of Segamat, in the State of Johore, without lawful excuse had in your possession a firearm, to wit, a bren gun, without lawful authority and you have thereby committed an offence punishable under section 57(1)(a) of the Internal Security Act, 1960.

3rd Charge: That you between the 2nd day of September, 1964 and the 13th day of September, 1964, in a Security Area as proclaimed by the Yang di-Pertuan Agong vide Federal L.N. 245 of 17th August, 1964, namely Kampong Redong Ayer Panas Labis, in the District of Segamat, in the State of Johore, without lawful excuse had in your possession ammunition, to wit, 120 rounds of ammunition, without lawful authority and you have thereby committed an offence punishable under section 57(1)(b) of the Internal Security Act, 1960."

In the case of the second appellant, Lee Ching Sai, the charges were as follows:—

"*1st Charge*: That you between the 2nd day of September, 1964 and the 13th day of September, 1964, in a Security Area as proclaimed by the Yang di-Pertuan Agong vide Federal L.N. 245 of 17th August, 1964, namely Kampong Tenang, Labis, in the District of Segamat, in the State of Johore, consorted with members of the Indonesian armed forces, who carried firearms and ammunitions in contravention of the provisions of section 58(1) of the Internal Security Act, 1960, in circumstances which raised a reasonable presumption that you intended to act with such members of the said Indonesian armed forces in a manner prejudicial to the public security and that you have thereby committed an offence punishable under section 58(1) of the Internal Security Act, 1960.

2nd Charge: That you between the 2nd day of September, 1964, and the 13th day of September, 1964, in a Security Area as proclaimed by the Yang di-Pertuan Agong vide Federal L.N. 245 of 17th August, 1964, namely Kampong Tenang, Labis, in the District of Segamat, in the State of Johore without lawful excuse had under your control a firearm, to wit, a sten gun, without lawful authority and you have thereby committed an offence punishable under section 57(1)(a) of the Internal Security Act, 1960.

3rd Charge: That you between the 2nd day of September, 1964 and the 13th day of September, 1964, in a Security Area as proclaimed by the Yang di-Pertuan Agong vide Federal L.N. 245 of 17th August, 1964, namely Kampong Tenang, Labis, in the District of Segamat, in the State of Johore, without lawful excuse had under your control ammunitions, to wit 300 rounds of sten gun ammunition, without lawful authority and you have thereby committed an offence punishable under section 57(1)(b) of the Internal Security Act, 1960."

Both appellants were tried together on all three charges and neither at the trial nor before this court has any objection been taken to this course. In the event each of the appellants was convicted on all three charges against him and sentenced to death.

Against these convictions the appellants have now appealed.

The case for the prosecution was as follows.

The appellants were arrested near Labis on 13th September, 1964. Ahmad Salleh and Yassin Kandol, two village labourers, said that on that day about 2 p.m. they were together near Labis when they saw two strangers coming out of a road that came from the jungle dressed in shirt and trousers. They were suspicious of these men because they were strangers and by reason of the invasion civilians had been forbidden to go into the jungle and so they followed them till they came to a police party. They then pointed at the strangers and the police arrested them. Neither witness identified either of the appellants as one of the strangers.

Corporal Mohamed Yasin said that on 13th September he was in charge of a police patrol. About 2.40 p.m. he saw the appellants approaching and the two previous witnesses following them. One of the previous witnesses pointed at the appellants and he arrested them. He searched them and found that each of them had a packet of Malaysian currency in $1 notes wrapped in plastic. He did not count these notes but later he handed them to Inspector Liew who did count them and found that the amount found on the first appellant Ng was $300 and the amount found on the second appellant Lee was $270. The second appellant, Lee, also had a Malaysian Identification Certificate.

Then there was the evidence of four Indonesian prisoners of war said to have been in the same aircraft as the appellants.

Yusof Suwarjo of the Indonesian air force said he was one of an armed party which left Jakarta by air and came straight to Malaysia. The party consisted of 48 persons, 41 Indonesians and 7 Malaysians, all in Indonesian uniform. The first appellant, Ng, was one of the party. He was the only Malaysian in the witness' section. He was carrying a bren gun and

ammunition but he could not say if he was carrying grenades. On a given signal all the party jumped from the aircraft including the first appellant. They landed in jungle and he and the first appellant were together in the jungle for two days. They then separated. The witness was captured about a month later and later he saw the first appellant at the police depot in Johore Bahru.

Ismail Marjuki, a sergeant in the Indonesian air force, said he was in the same aircraft as the last witness but did not see the first appellant in the aircraft. The aircraft left Jakarta for what was, so far as he was concerned, an unknown destination and in the early hours of 2nd September they all jumped from the aircraft. The witness was in the jungle for about a month when he was captured near Labis. While he was in the jungle he met the first appellant in company with the witness Suwarjo. The appellant was still wearing uniform and was carrying a bren gun, ammunition and two grenades.

Djamhir Erop Ali, a soldier in the Indonesia army, said he was one of the party of 41 Indonesians and 7 Malaysians who were in the aircraft that left Jakarta. Each of them had firearms, ammunition, grenades, civilian clothes and $300 in Malaysian $1 notes. The second appellant, Lee, was one of the party and was in the same section as the witness. He was carrying a sten gun, ammunition and two grenades. When they left Jakarta they were told they were going for a training flight. They all jumped from the aircraft. After he landed he saw the second appellant on the ground and he still had his firearm and ammunition. After about two weeks the witness was captured and he saw the second appellant in the Johore Bahru prison.

Iber Ali, a private in the Indonesian army, said he was a member of the armed party in the aircraft which left Jakarta about 10 p.m. on 1st September. All the party were armed with bren guns or sten guns, ammunition and two grenades and each of them had $300 in Malaysian $1 notes. The second appellant, Lee, was one of the party and was in the same section as the witness. He was carrying a sten gun, ammunition and two grenades. After the party jumped he met the second appellant who was still carrying his firearm and ammunition. Later the witness was captured and saw the second appellant in the Johore Bahru prison.

Finally there were statements by the appellants made to the police on 17th September which were admitted under section 75(1) of the Internal Security Act. There was acute controversy at the trial regarding the circumstances in which these statements were made and that will have to be considerel later. The contents of these statements, however, were as follows.

The first appellant, Ng, said that one day in May, 1964, a friend approached him and asked him if he would like a job looking after some fishing stakes. He agreed and they went to the stakes which were in the sea off Pontian. Then he was taken to the Indonesian island of Balai. There with some 50 other young men, 10 of them from Pontian, he was given weapon training for ten days. He and the others were then taken to Jakarta where they were issued with rifles and uniforms and given about two months training.

Then about 11 p.m. on 1st September he and others left Jakarta by aircraft. He himself was issued with a bren gun, 120 rounds of ammunition, uniform, civilian clothing and rations. At first they were not told their destination but later were told it was Johore. In the aircraft they were each given $300 in Malaysian currency. They jumped from the aircraft about 3 a.m. and landed in jungle. After daybreak he met the second appellant. They wandered about in the jungle and at one stage met some Indonesians who later left them. When their rations were exhausted they decided to come out of the jungle and he hid his weapon and ammunition and uniform under a tree. He came out of the jungle with the second appellant and was arrested. He now felt he had been cheated and wanted to settle down in this country. He had tasted the life of a soldier and did not like it at all.

The second appellant, Lee, said that in May, 1964, a friend offered him a job. He went with his friend to a beach where with others he was picked up by a motor boat and taken to the island of Balai. There they received weapon training for about ten days when they were taken to Jakarta where they received parachute training for about three months. On 1st September he and others were ordered to assemble. There were 48 persons in all, 41 Indonesians and 7 Malaysians, under the command of an Indonesian leader named Wagimin. About 11 p.m. they went on board an aircraft and each of them was given $300 in Malaysian currency. They were not told their destination. Later they jumped from the aircraft. At the time he did not know where they had landed but later he learned it was near Labis. He started to walk on a compass bearing. He met an Indonesian paratrooper hanging on a tree. Then he met the first appellant, Ng, and then they met other Indonesians. Later they separated from the Indonesians and decided to come out of the jungle. At the time he still had a sten gun and 300 rounds of ammunition but he hid these things and his uniform under a tree.

That was the case for the prosecution and in itself, leaving aside the statements of the appellants to the police, it was if believed sufficient to justify the convictions of the appellants

on the charges against them.

Nevertheless, although in the course of the prosecution case each of them gave evidence regarding the making of their statements to the police, yet when the time came for them to make their defence at the close of the prosecution case neither of them gave evidence on affirmation, but each of them elected to make a statement not on affirmation.

The first appellant, Ng, said this:—

"I am 19 years old. On 17.9.64 the statement which I gave to P.W.10 was all untrue. The evidence given against me by the two Indonesians is also untrue. I was never at any time with the two Indonesians. I do not know the two Indonesians at all."

The second appellant, Lee, said this:—

"I am 24 years old. I am innocent. The statement which I gave to P.W.10 on 17.9.64 was all untrue. The evidence given by the two Indonesians against me is also untrue."

Perhaps not surprisingly the trial judge found nothing in these statements to make him less than sure regarding the conclusions of guilt which he based upon the prosecution evidence.

Passing now to the grounds of appeal a number of these, though not abandoned, were not argued at length by reason of our decisions in previous cases.

The argument was advanced that the airspace of the State of Johore was not part of the security area established by the Proclamation of 17th August, 1964. In so far as airspace was concerned we rejected this argument for reasons we have stated previously. It is, however, to be observed that in the present case the prosecution evidence, if believed, made out possession of arms and ammunition and consorting not only in the airspace but also on the ground after the invading party had landed.

Again it was argued that because the members of the invading party had no knowledge that an invasion was intended there could be no question of any intention to act in a manner prejudicial to the public security of this country. Again, for reasons we have stated previously we rejected this argument.

There are, however, three grounds of appeal which merit some consideration.

In the first place, it was said that the Indonesians who gave evidence were accomplices and that although the trial judge warned himself as regards the danger of accepting accomplice evidence without corroboration nevertheless he erred in holding there was corroboration and in particular he erred in finding corroboration in the uncontradicted facts that at the time of his arrest the first appellant was in possession of $300 and the second appellant in possession of $270 and that in each case the amount was made up exclusively of single dollar notes.

Here it was said that corroboration must be on "a material particular" implicating the appellants (*Baskerville* [1]), and that possession of money was a neutral circumstance that in itself could not connect the appellants with anything. But what was proved against the appellants (and this was not contradicted) was not just possession of money but possession in each case of a sum of about $300 which was not only a large sum but consisted exclusively of notes of one denomination and one denomination only and that is the smallest denomination in circulation. We find it impossible to imagine, and counsel for the defence has not suggested any circumstances in the normal life of this country in which any person could be found abroad in possession of a sum of money of such a size so made up without being able to furnish an immediate explanation. Casual unexplained possession of such sums is a fact which can only be described as something extraordinary and in the highest degree unusual. It was, however, capable of explanation here by the evidence of the Indonesian witnesses that each of the persons in the invading party was provided with such a sum so composed and that the appellants were both members of that party. And clearly to make such provision was a very obvious thing to do by way of preparing the party to make their way after landing in a hostile country which was the object of their being together equipped with arms and ammunition.

In the circumstances the trial judge was clearly right in regarding possession of the sums of money in question as corroboration of the evidence of the Indonesian witnesses implicating each of the appellants in a material particular.

Then it was said that the evidence of identification of the appellants was unsatisfactory.

As regards the witness Ismail Marjuki there is no need to examine this complaint in detail for the reason that the trial judge has said that though he did not doubt his veracity he would not have been prepared to regard his evidence of identification as wholly reliable.

As regards the other evidence of identification the complaint was based on admissions elicited from the witnesses in cross-examination that they did not know the appellants prior to 1st September and did not know their names, that they were shown photographs of the appellants and that no formal identification parades were held.

In our view these complaints are without substance. The witnesses said they saw the appellants on the ground as well as in the aircraft. It is clear that they were shown photographs with a view to connecting the appearance of the appellants, which they knew, with their names, which they did not know, for

the purpose of recording police statements to be supplied to the defence. And as regards identification parades it is difficult to see what useful purpose such parades would have served. It was not a case where witnesses were claiming to identify accused persons on the strength of having previously had a single sight of them. Here the witnesses had seen the appellants for some time before their capture and after their capture had seen them in custody. In the circumstances to have held formal identification parades would have been otiose. The question of whether identification was made out was largely a question of credibility and was a question for the trial judge to decide and we can see no reason to interfere with his conclusions.

Finally there is the question of the statements made by the appellants to the police, on 17th September, which it was said were wrongly admitted in evidence.

The appellants were arrested near Labis on 13th September. Inspector Liew said that on the 14th at Labis he questioned them both for intelligence purposes but denied that he used any threats, inducements or promise or applied any pressure to them. Inspector Foong said that later the same day at Johore Bahru with Inspector Chan he further questioned the appellants for intelligence purposes. Both the appellants were co-operative and answered questions willingly. At no time was any threat, inducement or promise made to either of them and no violence was used.

Then Superintendent Abdullah said that on 17th September he interviewed the two appellants separately at Segamat police station, in each case with the assistance of Sergeant Chee as interpreter. At neither interview was any other person present.

He saw the first appellant, Ng, at about 11.35 a.m.. At no time did he make any threat, promise or inducement to this appellant. He read out the statutory form of caution in Malay and Sergeant Chee interpreted it into a Chinese language. He then asked the appellant if he wished to make a statement. The appellant said he did. He then made a statement in a Chinese language which Sergeant Chee interpreted into Malay and the witness wrote down in English. The statement was interpreted back to the appellant who said it was correct. He finished recording the statement about 12.45 a.m.

About 3.15 p.m. the same day he saw the second appellant, Lee. Again no threat, promise or inducement was held out. He administered the statutory caution and the appellant elected to make a statement which was recorded in the same way as the statement of the first appellant.

Sergeant Chee said that he was present at the interviews between Superintendent Abdullah and the two appellants on 17th September and acted as interpreter. At neither interview was any other person present. His native tongue was Cantonese but he knew Hokkien and had passed a departmental examination in that dialect. As regards the Malay language he had no difficulty in conversing with Superintendent Abdullah.

He asked the first appellant what language he wished to speak and the appellant said Hokkien and the interview proceeded in that language. He interpreted the statutory caution to the appellant. The appellant then made a statement which he interpreted into Malay. The statement was then interpreted back to the appellant who adhered to it. No threat, inducement or promise was made.

Later he asked the second appellant what language he wished to speak and he also said he wished to speak in Hokkien. The caution was administered to him and he made a statement which was interpreted, written down and interpreted back to him and he adhered to it. Again there was no threat, promise or inducement.

At this stage both the appellants gave evidence regarding the statements made by them.

The first appellant, Ng, said that at Labis on 13th September, after his arrest, he was beaten by a number of men in plain clothes including Inspector Liew. They questioned him regarding the Indonesian forces. They showed him a dead body and said that if he did not co-operate he would be like the dead body. The following day he was taken to Johore Bahru where he was interviewed by Inspector Foong and Inspector Chan. They did not assault him and he made a statement to them. They said, however, that his statement was wrong. He was then beaten by some men in plain clothes. The next day or two he was beaten three times daily. He was told he was not speaking the truth and that his statement did not coincide with one made by the second appellant, Lee. He was also shown photographs of dead bodies, some with bullet holes and some with hands missing. On the night of 16th September he was taken to Segamat. The next morning he was taken to an office where there were five or six men in plain clothes and an officer in uniform whom he pointed out as Superintendent Paul Raj who was sitting in court. He admitted that the caution was read out to him and that he made a statement. He made no complaint of beating and his only complaint was that sometimes he did not understand the interpreter very well but he said that the reason he made the statement was that he had been under heavy pressure previously, he had been beaten and threatened. Later, in cross-examination he admitted that he made the statement

voluntarily after the caution was read to him.

The second appellant, Lee, said that at Labis on 13th September he was questioned by Inspector Liew who told him he was telling lies and beat him. He and the first appellant were then shown a dead body and were told if they did not co-operate with the Government they would be like the dead body. The following morning he was taken to Johore Bahru where he was questioned by Inspector Foong and Inspector Chan. They told him he was telling lies but did not do anything to him. The following day, 15th September, he was again questioned by Inspector Foong and Inspector Chan and again nothing happened to him. That night about midnight he was taken back to Labis where he was asked if he could identify a man with a swollen face. He was then taken back to Johore Bahru and had no sleep that night. The following morning, 16th September, he was questioned by a fat Chinese who asked him co-operate with the Government. He was then asked some questions but was not assaulted and was not threatened in any way. The following day, 17th September, he was back at Segamat where he was questioned by Superintendent Abdullah. He admitted that he was cautioned but said he did not understand the caution fully. He made his statement because he was questioned and had previously been assaulted.

On that material there is no real cause to doubt the evidence of Superintendent Abdullah and his interpreter as to the circumstances in which the statements of the appellants were taken on 17th September. There is no allegation of any impropriety of any sort and little if any possibility of the caution which was admittedly administered being misunderstood.

There was, however, acute conflict of testimony between the prosecution witnesses and the two appellants as to what happened to the appellants while in custody prior to 17th September. That evidence was examined in detail by the trial judge who came to the conclusion that neither of appellants was assaulted on 13th September while in the custody of Inspector Liew and neither of them was assaulted subsequently while they were in the custody of Inspector Foong and Inspector Chan at Johore Bahru. He was also satisfied that the statutory caution was properly administered to both the appellants by Superintendent Abdullah and his interpreter. In the circumstances he came to the conclusion that the statements were made voluntarily and after administration of the statutory caution and with this conclusion we see no reason to quarrel.

In any event we would observe that quite apart from the statements there was ample evidence which, if believed and it was believed by the trial judge, was sufficient to support the conclusions at which he arrived. In our view it was evidence on which no reasonable trier of fact could have come to any other conclusions.

The appeals are dismissed.

Appeals dismissed.

LAW KIAT LANG v. PUBLIC PROSECUTOR

[F.C. (Thomson L.P., Ong Hock Thye Ag.C.J. (Malaya) and Suffian J.) December 28, 1965]

[K.L. — Federal Court Criminal Appeal No. X16 of 1965]

Internal Security — Possession of firearm and ammunition — Consorting with Indonesian Armed Forces — Admissibility of statements — Courts of Judicature Act, 1964, s. 60(1) — Internal Security Act, 1960, ss. 57(1) & 58(1).

Internal Security — Security area — Whether airspace forms part of.

The appellant were convicted on charges of consorting with members of the Indonesian armed forces and possession of a firearm and ammunition. The main grounds of appeal were (1) that the appellant did not know that the expedition which took part was intended to be an invasion and even if the object was invasion, there was no evidence as to what particular purpose, if any, prejudicial to public security the invaders intended to effect; (2) that the statement of the appellant was wrongly admitted in evidence. It was alleged that the appellant had been subjected to assaults and questioning for intelligence purposes and that the statement given by him was not a voluntary one. It appeared that the dates stated in the first charge was wrong but they were not amended.

Held: (1) clearly the expedition in this case was an unlawful one calculated to affect the public security;

(2) the court saw no reason to disagree with the view of the trial judge who heard the evidence and found that the statement was voluntarily made but even if the court was satisfied that the statement had been wrongly admitted, the case would clearly come within the proviso to section 60(1) of the Courts of Judicature Act;

(3) the mistake in the first charge could not be regarded as material as the date was not an essential part of the alleged offence.

Cases referred to:—

(1) *Tan Hua Lam* v. *Public Prosecutor* [1966] 1 M.L.J. 147.

(2) *R.* v. *Severo Dossi* (1918), 13 Cr.App.R. 158, 159.

(3) *R.* v. *Stirland* (1944), 30 Cr.App.R. 40; [1944] A.C. 315; [1944] 2 All E.R. 13.

FEDERAL COURT.

T. T. Rajah for the appellant.

Ajaib Singh (Deputy Public Prosecutor) for the respondent.

Cur. Adv. Vult.

Thomson L.P.: This is another appeal arising out of the Indonesian invasion near Labis on the night of 1st/2nd September, 1964, with which we were concerned in the case of *Tan Hua Lam* v. *Public Prosecutor*.[1]

On the morning of 4th September the present appellant was arrested and he was thought to have been one of the armed men who had left by parachute the aircraft which figured in that